

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PROSKAUER ROSE LLP,

Plaintiff,

v.

JONATHAN O'BRIEN,

Defendant.

Case No. 22 Civ. 10918 (AT)

DECLARATION OF JEREMY RUSSO

Jeremy Russo makes the following declaration pursuant to 28 U.S.C. § 1746:

1. I am over the age of eighteen.
2. The facts set forth in this declaration are based on my personal knowledge.
3. I am the former Director of Financial Planning and Analysis ("FP&A") for Proskauer Rose LLP ("Proskauer" or the "Firm"). I resigned from the Firm in mid-December to pursue new opportunities.
4. Proskauer's fiscal year ("FY") closes on October 31. Following the close of the FY, there are a significant number of year-end reviews and processes that continue through the end of the calendar year.
5. This past year, as part of those annual processes and with the input of Proskauer's former Chief Financial Officer, I assisted in consolidating (in electronic form) all relevant reporting and other relevant documents in a single location (the "year-end folder"). This is done to efficiently respond to questions by Proskauer's upper management, including Proskauer's then-Chief Operating Officer Jonathan O'Brien, as well as to review achievements and goals for

next year. Several hard copies of select documents were printed for individuals who wanted the ability to refer to the materials on paper. I am not certain of everyone who had a hard copy but, for example, I had one, which I have since returned in connection with my departure from the Firm.

6. In early-December, Mr. O'Brien told me that he had an upcoming vacation and asked me to provide him with any materials I thought might be useful to him so that he could be certain of his ability to access any information he might need to address any Firm questions or issues while he was away.

7. Given that there was already a consolidated year-end folder as part of the year-end process, I pointed him to that. The contents of the year-end folder were periodically updated after the folder's initial creation as information evolved and reports were created or updated. As I mentioned above, the year-end process continues after the end of the fiscal year (October 31) through the end of the calendar year. Mr. O'Brien asked me to update the year-end folder for him on December 16, which I did.

8. December 16 also happened to be the day of my resignation. It was a very hectic day.

9. I understand that the year-end folder that Mr. O'Brien ultimately took with him on vacation contained a folder of code and scripts. Other than the passcodes discussed below, Mr. O'Brien did not ask for that information (or any specific information) to be included. Rather, I was giving him everything in the year-end folder. The code and script files were included as the result of a misunderstanding by a member of my team. I understand that Mr. O'Brien had requested the codes to all files and reports, which my team misinterpreted as a request for computer code. I understand now that Mr. O'Brien was asking for any codes necessary to open

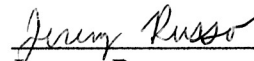
any protected documents within the year-end folder so that he would be able to access them while on vacation.

10. The idea that Mr. O'Brien would try to steal computer code and scripts from Proskauer makes no sense; they are useless outside of Proskauer. You cannot simply plug those files into another system. You need to have all the same components as Proskauer has – including Proskauer's highly-customized data infrastructure. As a result, it would be virtually impossible to run any of the code/scripts outside of Proskauer.

11. At some point I renamed the file "2022 tax documents." The name was not created or suggested by Mr. O'Brien and it was absolutely not named that way as an effort to conceal anything. That was simply a mistake on my part. At the time, I had been preparing to have conversations with my financial advisor related to my personal finances and taxes. In that regard, my investment advisor called me a few times in early to mid-December, and I had a call with him a few days following my resignation, so I had been thinking about and preparing for that conversation. As a result, I misnamed the year-end folder.

12. I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 11, 2023
Garden City, New York



Jeremy Russo

CERTIFICATE OF SERVICE

I hereby certify that, on January 11, 2023, the foregoing document was served electronically via ECF upon all counsel of record.

/s/ Russell Beck
Russell Beck